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10/573,820

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Sharon Ehrlich

EHRlich2

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EXAMINER

NAQI, SHARICK

ART UNIT

PAPER NUMBER

3769

MAIL DATE

DELIVERY MODE

06/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,820	Applicant(s) EHRlich ET AL.	
	Examiner SHARICK NAQI	Art Unit 3769	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-71 and 73-93 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 51-71 and 73-93 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/20/2009 and 2/4/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Examiner acknowledges the amendment filed on March 11, 2009.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 51-70, 89-90, and 92-93 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Independent claims 51 contain the newly added limitation that "the individual is not provided with any indication whether at least one stimulus will appear" (claim 51, lines 16-17), and independent claims 89-90 also contain similar limitations. There is insufficient support for this limitation in the original disclosure because the original disclosure only states that "[i]n one of the embodiments the stimuli and registered parameters may be selected automatically while neither individual nor human operator may have influence or knowledge about the stimuli and the parameter to be registered. This lack of knowledge of the exact manipulation will counteract a preparatory training which the individual may have trained for to control the reaction when being subjected to a given stimuli" (Page 11, line 29-page 12 line 5).

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Dependent claims 52-70 and 92-93 are rejected based on their dependence on rejected independent claim 51.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 89 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Lines 5 and 13 of claim 89 refer to a "stimuli exposure block". It is unclear what exactly is meant by a "block", does a "block" comprise hardware or is it just an algorithm or software. If the "block" is simply software then it will be given limited patentable weight in the apparatus claim because software by itself lacks structure that would be attributed to the apparatus claims.

Claim 93 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Lines 1-2 of claim 93 state, "the exposure time frames are scheduled with certain intervals thereby increasing a stickiness of the individual in fulfilling the assignment." It is unclear whether "certain intervals" is referring to the length of time between the beginning and end of each individual exposure time frame, the length of time between separate exposure time frames or the length of time between sets of multiple exposure time frames.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 51-71 and 73-93 are rejected under 35 U.S.C. 102(e) as being anticipated by DuRousseau US Patent Publication No. 2004/0143170 (provided in Applicant's IDS).

51. A method for computerized indicating individuals with hidden intent, the method comprising:

(a) exposing an individual to one or more stimuli within at least one exposure timeframe while said timeframe is contemporary with individual's fulfillment of at least one stated assignment and said stimulus does not require an active direct reaction from the individual and is intended to cause a psycho- physiological reaction, said exposing provided with the help of one or more stimuli exposure tools (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Examinee is asked questions in a normal environment and then asked questions while being exposed to IMVR stimuli, psychometric data is collected the entire time. Questions are equivalent to one state task and IMVR stimulus does not require an active direct reaction from the individual*);

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(b) registration of individual's psycho-physiological characteristics giving rise to registered parameters, said registering provided with a help with one or more sensors and/or measuring tools (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056.*

Psychometric data collection is equivalent to registration of psycho-physical characteristics);

(c) computerized comparing the registered parameters or derivatives thereof with a test criterion (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Baseline values and signal collected during IMVR stimuli are compared to see if user is trying to deceive);*

(d) computerized providing indication of hidden intent in case of predefined discrepancy (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Baseline values and signal collected during IMVR stimuli are compared to see if user is trying to deceive. This is equivalent to providing indication of hidden intent),*

wherein the individual is not provided with any indication whether at least one stimulus will appear (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. There is no disclosure of any indication given to the examinee whether the stimulus will appear).*

52. The method of Claim 51 wherein said hidden intent is malicious (*Paragraph 0034).*

53. The method of Claim 51 wherein at least one of said stimuli does not form a part of said assignment (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*)

54. The method of Claim 51 wherein said psycho-physiological characteristics include a behavioral reaction (*Paragraph 0003*).

55. The method of Claim 51 wherein at least one of said stimuli is a member of a group comprising concealed stimuli and stimuli creating sub-conscious reaction (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

56. The method of Claim 51 wherein the provision of at least one of said stimuli is fully automated (*Paragraphs 0052*).

57. The method of Claim 51 wherein at least one of said stimuli is a member of a group comprising stimuli provided via physical and virtual media (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

58. The method of Claim 51 wherein at least part of said stimuli are grouped within the exposure timeframe in at least one dedicated set (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

59. The method of Claim 58 wherein at least one set of stimuli is dedicated to individual's authentication (*Abstract, Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

60. The method according to Claim 58 wherein at least one set of stimuli is dedicated to indication of countermeasures by the individual (*Paragraphs 0018, 0047-48*).

61. The method of Claim 51 comprising random or pseudo-random selection of at least one type of said stimuli (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

62. The method of Claim 51 comprising random or pseudo-random exposure of at least one of said stimuli within the exposure timeframe (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

63. The method of Claim 51 comprising scheduled exposure of at least one of said stimuli within the exposure timeframe (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

64. The method of Claim 51 wherein said test criterion includes a test pattern; the method further comprising adapting said test pattern to the individual according to registered parameters (*Paragraphs 0022*).

65. The method of Claim 93 wherein said test criterion includes a test pattern; the method further comprising adapting said test pattern to the individual according to one or more parameters registered before the first exposure time frame (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

66. The method of Claim 64 comprising adapting said test pattern to parameters registered between exposure time frames (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

67. The method of Claim 64 comprising adapting said test pattern to parameters registered during exposure of a dedicated set of stimuli (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

68. The method of Claim 51 wherein appearance and continuity of at least one exposure timeframe is random or pseudo-random (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

69. The method of Claim 51 wherein appearance and continuity of at least one exposure timeframe is scheduled (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

70. The method of Claim 51 wherein said assignments include answering questions and at least one stimulus comprising flashing at least one picture not related to the content of the questions (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

71. A method for computerized indicating individuals with hidden intent, the method comprising:

(a) exposing an individual to at least two sets of stimuli within one or more exposure timeframe, while first set of stimuli is dedicated to cause a known in advance individual's response and the second set is dedicated to indicate a hidden intent, said exposing provided with a help of one or more stimuli exposure tools (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Examinee is asked questions in a normal environment and then asked questions while being exposed to IMVR stimuli, psychometric data is collected the entire time. Questions in normal environment are equivalent to one set and questions in IMVR stimulus is the second set*);

(b) registration of psycho-physiological characteristics giving rise to registered parameters, said registration provided with a help of one or more sensor and/or measuring tools (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Psychometric data collection is equivalent to registration of psycho-physical characteristics*);

(c) computerized comparing the parameters or derivatives thereof registered during the exposure of the first set with the known in advance individual's response hereby enabling authentication of the individual (*Abstract, paragraphs 0017-0019, 0034,*

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0046-0049 and 0056. Baseline values and signal collected during IMVR stimuli are compared to see if user is trying to deceive and also for identification of individual/certification of information as stated in the abstract. Identification is equivalent to authentication);

(d) computerized comparing the parameters or derivatives thereof registered during the exposure of the second set with a test criterion (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Baseline values and signal collected during IMVR stimuli are compared to see if user is trying to deceive*);

(e) computerized providing an indication of hidden intent in case of predefined discrepancy resulting from at least one of the steps of c) and d) (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Baseline values and signal collected during IMVR stimuli are compared to see if user is trying to deceive*).

73. The method of Claim 71 wherein said comparison with the known in advance individual's response is further provided for the purpose of indicating countermeasures by the individual (*Paragraphs 0018, 0047-48*).

74. The method of Claim 71 wherein each of said exposure timeframes is contemporary with individual's fulfillment of at least one stated assignment (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

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75. The method of Claim 71 wherein said first and second sets of stimuli are exposed in different exposure timeframes (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

76. The method of Claim 71 wherein said first and second sets of stimuli are exposed within the same exposure timeframes (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

77. The method of Claim 71 wherein said hidden intent is malicious (*Paragraph 0034*).

78. The method of Claim 71 wherein said psycho-physiological characteristics include a behavioral reaction (*Paragraph 003*).

79. The method of Claim 71 wherein at least one of said stimulus is a member of a group comprising concealed stimuli and stimuli creating sub-conscious reaction (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

80. The method of Claim 71 wherein provision of at least one of said stimuli is fully automated (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

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81. The method of Claim 71 wherein at least one of said stimulus is a member of a group comprising stimuli provided via physical and virtual media (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

82. The method of Claim 71 comprising random or pseudo-random selection of a type of at least one of said stimuli (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

83. The method of Claim 71 comprising random or pseudo-random exposure of at least one said set of stimuli within the exposure timeframe (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

84. The method of Claim 71 comprising scheduled exposure of at least one said set of stimuli within the exposure timeframe (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

85. The method of Claim 71 wherein said test criterion includes a test pattern; the method further comprising adapting said test pattern to the individual according to registered parameters (*Paragraphs 0022*).

86. The method of Claim 71 wherein

said known in advance individual's response includes a test pattern (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*);

the method further comprising adapting said test pattern to the individual according to parameters registered in advance (*Paragraphs 0022*).

87. The method of Claim 71 wherein appearance and continuity of at least one exposure timeframe is random or pseudo-random (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

88. The method of Claim 71 wherein appearance and continuity of at least one exposure timeframe is scheduled (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

89. A system for computerized indicating individuals with hidden intent, the system comprising:

(a) a working place for fulfillment of at least one stated assignment (*Paragraphs 0034. Portable device thus it can be used in any location*);

(b) a stimuli exposure block comprising one or more tools capable of providing stimuli exposure, the block configured to exposure at least one stimuli to said working place within at least one exposure timeframe while said timeframe is contemporary with individual's fulfillment of at least one stated assignment and said stimulus does not require an active direct reaction from the individual and is intended to cause a psycho-physiological reaction (*Paragraphs 0046-0049, 0056. IMVR system presents stimuli*

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while questions are being presented. IMVR stimulus does not require an active direct reaction from the individual);

(c) sensors and measuring tools block comprising one or more sensors and/or one or more measuring tools configured to register individual's psycho-physiological characteristics giving rise to registered parameters (*Paragraphs 0036-0041. Sensor placement unit, DSP and PC collect and analyze the physiological data*);

(d) a processor configured to compare the registered parameters or derivatives thereof with a test criterion and to facilitate indicating a hidden intent in case of predefined discrepancy (*Paragraph 0042-0044, 0056. PC processes data to detect deception based on a comparison with baseline data*).

Wherein the system is configured to provide no indication to the individual whether at least one stimulus will appear (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. There is no disclosure of any indication given to the examinee whether the stimulus will appear*).

Claim 90 is rejected on substantially the same basis as claim 51.

Claim 91 is rejected on substantially the same basis as claim 71.

92. The method of claim 51 wherein fulfilling the assignment starts before registering the individual psycho-physiological characteristics and before a first exposure time frame (*Abstract, Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

93. The method of claim 51 wherein the exposure time frames are scheduled with certain intervals thereby increasing the stickiness of the individual in fulfilling the assignment (*Abstract, Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Every stimuli inherently has an interval*).

Response to Arguments

Applicant's arguments filed on January 20, 2009 have been fully considered but they are not persuasive.

In regards to claims 51, 89 and 90, Applicant argues that DuRousseau does not meet the limitation that “the individual is not provided with any indication whether at least one stimulus will appear” because in DuRousseau the individual knows that he/she is under the test and the individual is placed into an immersive virtual-reality environment (IMVR) by using special equipment (e.g. special glasses, headphones etc.), thereby the individual is provided with an indication that at least one stimulus will appear. The Examiner respectfully disagrees. Paragraph 0056 of DuRousseau shows that at first the questions are presented to the examinee in a “normal” environment where the IMVR system is not presenting any stimuli and then later the IMVR system starts presenting a novel environment designed to detect deception by distracting or evoking a reaction. Therefore the use of special glasses/headphones does not serve as an indication that one stimulus will appear because, as shown above, in one situation (the normal environment) the IMVR is not turned on and no stimuli are presented.

In regards to claims 71 and 91, Applicant argues that DuRousseau does not disclose the limitation of “enabling the authentication of the individual”. The Examiner respectfully disagrees. Although an explicit definition of “authentication” cannot be found in the specification, a commonly accepted definition of "authentication" is the process of identifying an individual (see <http://www.webopedia.com/TERM/A/authentication.html>). The Examiner has determined that the broadest reasonable interpretation of the claim in light of the specification is that “authentication” includes identification of a person. The abstract of DuRousseau discloses using the system for individual identification/certification of information, thus DuRousseau rejects the limitation.

Applicant is invited to request an interview to discuss suggestions to overcome the applied prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARICK NAQI whose telephone number is (571)272-3041. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry M. Johnson III can be reached on 571-272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/S. N./

Examiner, Art Unit 3769

/Michael C. Astorino/

Primary Examiner, Art Unit 3769

June 18, 2009